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EXAMINER

LARSON, JUSTIN MATTHEW

ART UNIT	PAPER NUMBER
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3727

DATE MAILED: 06/16/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/673,632

Applicant(s)

HUSSAINI ET AL.

Examiner

Justin M. Larson

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 06 March 2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-19 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-19 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

DETAILED ACTION

Claim Objections

1. Claim 4 is objected to under 37 CFR 1.75(c), as being of improper dependent form for failing to further limit the subject matter of a previous claim. Applicant is required to cancel the claim(s), or amend the claim(s) to place the claim(s) in proper dependent form, or rewrite the claim(s) in independent form. Claim 1 already requires that the base strap be connected to the housing at a single point. In fact, claim 1 is more specific than claim 4, requiring that the base strap is connected to a lower portion of the housing. Claim 4 is therefore actually broader than claim 1.

Claims 7 and 8 are objected to because of the following informalities: In view of Applicant's amendments to claims 11-14, Examiner believes that "the system" as recited in claims 7 and 8 should also be changed to "the mounting device". Appropriate correction is required. Claim 8 is further objected to because it should depend from claim 7, not claim 5. Appropriate correction is required.

Claim Rejections - 35 USC § 112

2. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter that the applicant regards as his invention.

3. Claims 5 and 12-17 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Regarding claims 5 and 12-14, claim 12 recites "said three attachment points", while claim 5 recites "a maximum of three strap attachment points". This maximum

could in fact be only two, which would not support the "said three attachment points" in claim 12. It is unclear whether Applicant wishes to claim a maximum of three strap attachment points or intends to positively claim exactly three attachment points but no more than three attachment points.

Regarding claims 15-17, claim 15 recites the limitation "said container" in lines 5 and 9. There is insufficient antecedent basis for this limitation in the claim. Claim 16 recites the limitation "said container" in line 3. There is insufficient antecedent basis for this limitation in the claim.

Claim Rejections - 35 USC § 102

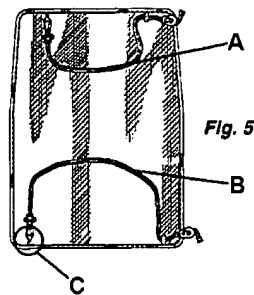
4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

5. Claims 1-4 and 18 are rejected under 35 U.S.C. 102(b) as being anticipated by Bergh (US D419,520).

Bergh (shown in figure below) discloses a mounting device comprising: a housing; a first strap (A) connected to two discrete spaced apart points on the upper portion of the housing; and a second strap (B) connected to a single point (C) of the lower portion of the housing. Note that (C) is certainly a single point, and that strap (B) is attached to this single point. The claim does not currently require that both ends of strap (B) are attached to this single point or that the strap is attached only to this single point and no other points.



The initial statement of intended use and all other functional implications have been carefully considered but are deemed not to impose any patentably distinguishing structure over that disclosed by Bergh which is capable of being used in the intended manner, i.e., to support a portable electronic device on the back of an automobile seat. There is no structure in Bergh that would prohibit such functional intended use (see MPEP 2111). A portable electronic device could certainly be accessibly retained in the opened pocket portion.

Regarding claim 18, Bergh clearly shows the claimed combination of the mounting device and a seat.

6. Claims 1, 3, 6, 7, 9, 10, and 11 are rejected under 35 U.S.C. 102(b) as being anticipated by Hougham (5,310,102).

Regarding claims 1, 3, 6, 7, and 11, Hougham discloses a mounting device comprising: a housing (11); a first adjustable strap (73); a second adjustable strap (23) connected to a single point of the lower portion of the housing (Figure 2, turned upside-down) via a crossover strap (69), the cross over strap disposed between an interconnecting the housing to the second strap, wherein a first end of the cross over strap includes a sliding loop to provide an adjustable connection with the second strap and has an adjustment mechanism (25) to adjust the length thereof.

The initial statement of intended use and all other functional implications have been carefully considered but are deemed not to impose any patentably distinguishing structure over that disclosed by Hougham which is capable of being used in the intended manner, i.e., to support a portable electronic device on the back of an automobile seat. There is no structure in Hougham that would prohibit such functional intended use (see MPEP 2111). The first strap (73) is capable of substantially encircling an automobile seat's headrest. The second strap (23) is capable of being connected to the lower portion of a seat. A portable electronic device could be accessibly retained across the three hangers (38&41) after the holder is turned upside-down.

Regarding claims 9 and 10, the housing of Hougham comprises a steel frame (31) and a fabric harness (60). Examiner therefore considers the housing to be arguably both hard- and soft-sided.

7. Claims 1, 3, 4, 5, and 11 are rejected under 35 U.S.C. 102(b) as being anticipated by Smith (US 5,465,889).

Regarding claims 1, 3, 4, and 11, Smith discloses a mounting device (Figure 1, turned upside-down) comprising: a housing (10); a first adjustable strap (13) connected to the upper portion (panel 16, Figure 5) of the housing; a second adjustable strap (12) connected to a single point (location of holes 30) of the lower portion of the housing.

Regarding claim 5, the housing of Smith has two strap attachment points, one point being the location of the holes 30 and the other point being the location of the holes on panel 16. The claim requires that the housing has a maximum of three attachment points, which Examiner interprets as meaning the housing can have no

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more than three attachment points, but does not necessarily have to have exactly three. Since Smith has less than three attachment points, the limitations of this claim are satisfied.

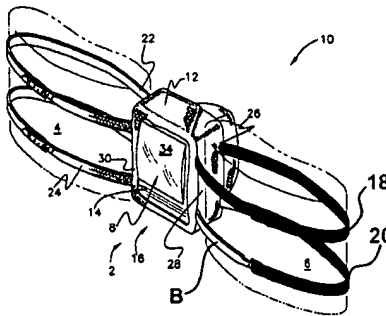
The initial statement of intended use and all other functional implications have been carefully considered but are deemed not to impose any patentably distinguishing structure over that disclosed by Smith which is capable of being used in the intended manner, i.e., to support a portable electronic device on the back of an automobile seat. There is no structure in Smith that would prohibit such functional intended use (see MPEP 2111). The first strap (13) is capable of substantially encircling an automobile seat's headrest. The second strap (12) is capable of being connected to the lower portion of a seat. A portable electronic device could certainly be accessibly retained in the purse body (10) after the holder is turned upside-down.

8. Claim 15 is rejected under 35 U.S.C. 102(b) as being anticipated by Perkins (US 6,097,448).

Perkins discloses a mounting device (10) for releasably securing a portable electronic device (2) in combination with an automobile seat (6) having a substantially vertical backrest portion and a base portion, said mounting device comprising: a housing (12) for accessibly retaining said portable electronic device; a three-point connecting harness (18/20) for holding said housing to a rearward facing surface of an automobile seat, said three-point connecting harness including a headrest strap (18) encircling an upper portion of said substantially vertical portion of said automobile seat, said headrest strap having a first and second end attached at two discrete spaced apart

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locations disposed in an upper portion of said housing, a base strap (20) encircling a portion of said backrest portion of said automobile seat adjacent said base portion of said automobile seat, and a crossover strap (B, see figure below) connecting said base strap to a third location disposed on a lower portion of said housing.



Regarding the three-point connecting harness, the straps (18&20) are shown connected to the housing at four separate attachment points, thus including three attachment points, making them an effective three-point connecting harness.

Regarding the crossover strap (B, above), Examiner asserts that the straps can be viewed in two ways. First, the entire darkened portion of strap (18) can be considered the entire strap. That is, the strap portions on either side of the buckle make up one strap member. Second, looking at strap (20), the darkened portion alone can be viewed as being the strap, while the white portion (B, above) can be considered a crossover strap that connects the strap (20) to the housing at a third location. In this case, the strap portions on either side of the buckle are considered to be separate straps.

Claim Rejections - 35 USC § 103

9. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

10. Claim 8 is rejected under 35 U.S.C. 103(a) as being unpatentable over Hougham in view of Rassias (6,149,042). Hougham discloses the claimed invention except he uses a length of hook-and-loop fastener for an adjustment mechanism rather than a slide buckle. Rassias, however, teaches that a slide buckle (12) can be used on a crossover strap (7) to allow for length adjustment. It would have been obvious to one having ordinary skill in the art at the time the invention was made to replace the length of hook-and-loop fastener of Hougham with a slide buckle, another well known and art equivalent adjustment mechanism, as taught by Rassias, in order to allow for length adjustment of the crossover strap.

11. Claim 19 is rejected under 35 U.S.C. 103(a) as being unpatentable over Bergh as applied in paragraph #5 above in view of Patterson(US 2001/0039903 A1).

Bergh discloses the claimed mounting device, but fails to disclose the combination with a portable electronic device. Patterson, however, also discloses such a mounting device and shows that a wide range of items, including a calculator, can be held within the mounting device (Figure 8). It would have been obvious to one having ordinary skill in the art at the time the invention was made that the mounting device of Bergh could be used to retain those items shown by Patterson, including a portable

electronic device such as a calculator, since the mounting devices of both Bergh and Patterson are each designed to retaining such items on the rear face of a vehicle's front seat for easy access to a passenger in the back seating area of the vehicle.

Allowable Subject Matter

12. Claims 12-14, 16, and 17 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.

Response to Arguments filed 3/6/06

13. Applicant's arguments with respect to the Hougham reference have been fully considered but they are not persuasive. Applicant has asserted that Examiner was in error when turning Hougham's device upside-down. Examiner maintains the position that when turned upside-down, Hougham's device includes all of Applicant's claimed structural features and that the difference in orientation between Applicant's invention and Hougham's device is not patentably distinct. Applicant has asserted that the frame of Hougham cannot be used for "accessibly retaining" the portable electronic device. Examiner maintains the position that a portable electronic device could be rested or supported on the hangers (38&41). A flat electronic device could be laid across all three of the horizontally projecting hangers and be effectively supported thereon.

In response to applicant's argument that there is no suggestion to combine the Hougham and Rassias references, the examiner recognizes that obviousness can only be established by combining or modifying the teachings of the prior art to produce the claimed invention where there is some teaching, suggestion, or motivation to do so

found either in the references themselves or in the knowledge generally available to one of ordinary skill in the art. See *In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988) and *In re Jones*, 958 F.2d 347, 21 USPQ2d 1941 (Fed. Cir. 1992). In this case, Examiner relied on the knowledge generally available to one of ordinary skill in the art. Hougham and Rassais both disclose waist/leg mount carriers with a means for adjusting the length of the strap that interconnects the waist strap and the leg strap. One of ordinary skill would certainly recognize that these means for length adjusting are equivalents and could be interchanged.

Applicant's remaining arguments not mentioned above have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

14. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The cited art relates to seat-mounted carriers.

15. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any

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extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

16. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Justin M. Larson whose telephone number is (571) 272-8649. The examiner can normally be reached on Monday - Friday, 8am - 4pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Nathan J. Newhouse can be reached on (571) 272-4544. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

JML
6/6/06


NATHAN J. NEWHOUSE
SUPERVISORY PATENT EXAMINER